

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

LASHAWN BAREFIELD,

Plaintiff,

v.

THE BOARD OF TRUSTEES OF THE
CALIFORNIA STATE UNIVERSITY,
BAKERSFIELD, JIM GEORGE,
DIANE HENDRICKSON,
MARK MURIE, DOES 1 through 50,
inclusive

Defendant.

CASE NO. CV-F-05-00633 AWI/
TAG

ORDER ON PLAINTIFF'S *EX*
PARTE APPLICATION FOR
AN ORDER CONTINUING
MOTION FOR SUMMARY
JUDGMENT HEARING DATE
OR, IN THE ALTERNATIVE,
FOR AN ORDER TO FILE
LATE BRIEF OPPOSING
DEFENDANTS' MOTION

Defendants have noticed for hearing and decision a Motion for Summary Judgement or, in the alternative, Summary Adjudication of Issues. The matter was scheduled for hearing on May 29, 2007. Pursuant to Local Rule 78-230(c), Plaintiff was required to file either an opposition or a notice of non-opposition no later than May 15, 2007. Plaintiff failed to do so. Defendants filed a reply memorandum on May 21, 2007 requesting that their motion be granted in its entirety, and that Defendant not be heard at oral argument, pursuant to Local Rule 78-230.

Plaintiff has filed an *ex parte* application for an order continuing the hearing date for Defendants' motion, or in the alternative for an order to file a late brief in opposition to

1 Defendants' motion. According to Plaintiff's counsel, due to inexplicable technical error, he did
2 not receive notice of Defendants' motion. In a declaration filed in support of Plaintiff's *ex parte*
3 application, Plaintiff's counsel also states that due to a death in the family he did not review the
4 docket during this time period. The Court sees no prejudice to Defendants and will grant
5 Plaintiff's application to continue the hearing date.

6 Therefore, IT IS HEREBY ORDERED that Plaintiff's *ex parte* request to continue the
7 hearing date is GRANTED. The hearing on Defendants' motion for summary judgment or, in
8 the alternative, summary adjudication is continued to June 11, 2007. Plaintiff's opposition to
9 Defendants' motion is due by 4:00 p.m. on May 25, 2007. Defendants' reply brief is due by 4:00
10 p.m. on June 4, 2007.

11 IT IS SO ORDERED.

12 **Dated: May 22, 2007**

/s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE